

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JAMES ALLEN SUSKE KINNEY,

Plaintiff,

vs.

THE STATE OF WASHINGTON, THE  
WASHINGTON DEPARTMENT OF  
CORRECTIONS and GOVERNOR  
JAY INSLEE,

Defendants.

No. 2:15-CV-00129-JTR

REPORT AND  
RECOMMENDATION TO DENY  
MOTION FOR TEMPORARY  
FURLOUGH

BEFORE THE COURT is Plaintiff's Motion for Temporary Furlough, ECF No. 5. Plaintiff, a prisoner at the Airway Heights Corrections Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

In essence, Plaintiff is seeking his release, and that of another inmate, for the purpose of conducting discovery in this case. This Court, however, is without authority to release a duly convicted state prisoner so that he may more easily litigate a civil rights action.

Furthermore, by Order filed June 12, 2015, the Court found that Mr. Kinney had failed to state a claim upon which relief may be granted in his initial complaint and directed that he amend or voluntarily dismiss within sixty (60) days. On June 24, 2015, Plaintiff submitted a Motion to Voluntarily Dismiss Complaint, ECF No.

REPORT AND RECOMMENDATION TO DENY MOTION FOR  
TEMPORARY FURLOUGH -- 1

13. But, he also submitted a First Amended Complaint, ECF No. 14, and a Motion to Reconsider the Order granting him leave to proceed *in forma pauperis*, ECF No. 15. In addition, on July 1, 2015, Plaintiff submitted a "Motion to Amend Defendant List," ECF No. 16. It is not entirely clear what Plaintiff's intentions for this case are.

Nonetheless, for the reasons set forth above, **IT IS RECOMMENDED** that Plaintiff's Motion for Temporary Furlough, ECF No. 5, be **DENIED**.

### **OBJECTIONS**

Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days following service with a copy thereof. Such party shall file written objections with the Clerk of the Court and serve objections on all parties, specifically identifying the portions to which objection is being made, and the basis therefor. Any response to the objection shall be filed within fourteen (14) days after receipt of the objection. Attention is directed to Fed. R. Civ. P. 6(e), which adds additional time after certain kinds of service.

A district judge will make a de novo determination of those portions to which objection is made and may accept, reject, or modify the magistrate judge's determination. The judge need not conduct a new hearing or hear arguments and may consider the magistrate judge's record and make an independent determination thereon. The judge may, but is not required to, accept or consider additional evidence, or may recommit the matter to the magistrate judge with instructions. *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C. § 636(b)(1)(B) and (C), Fed. R. Civ. P. 72; LMR 4, Local Rules for the Eastern District of Washington.

A magistrate judge's recommendation cannot be appealed to a court of appeals; only the district judge's order or judgment can be appealed.

**IT IS SO RECOMMENDED.** The District Court Executive is directed to

1 enter this Report and Recommendation, forward a copy to Plaintiff and SET A  
2 CASE MANAGEMENT DEADLINE ACCORDINGLY.

3 DATED July 27, 2015.



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JOHN T. RODGERS  
UNITED STATES MAGISTRATE JUDGE